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SENATE BILL 484

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Shannon Robinson

AN ACT

**RELATING TO CHARITABLE GAMING; ESTABLISHING CASINO NIGHTS;
ESTABLISHING LICENSING AND ELIGIBILITY REQUIREMENTS; AMENDING
AND ENACTING SECTIONS OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1
through 11 of this act may be cited as the "Casino Nights
Act".**

**Section 2. [NEW MATERIAL] DEFINITIONS. --As used in the
Casino Nights Act:**

**A. "applicant" means a qualified organization that
has applied for a permit or a person who has applied for a
distributor's license pursuant to the provisions of the Casino
Nights Act;**

B. "board" means the gaming control board;

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1 C. "casino night" means a charity fundraising
2 event sponsored by a qualified organization where, for a
3 donation, participants use chips or script to wager in casino
4 night games and may redeem accumulated chips or script for
5 merchandise;

6 D. "casino night game" means roulette; blackjack;
7 poker; keno; wheels of fortune; baccarat; bingo, raffles and
8 paper pull-tabs; any dice game where the player competes
9 against the house; and any other game of chance as identified,
10 defined and approved by the board. "Casino night game" does
11 not include a slot machine or electronic or electromechanical
12 facsimile of any game of chance as defined in Subsection M of
13 Section 60-2B-3, a gaming machine as defined in Subsection T
14 of Section 60-2E-3 NMSA 1978 or wagering on live sporting
15 events or simulcast broadcasts of horse races;

16 E. "casino night gaming equipment and supplies"
17 means any material, device, apparatus or paraphernalia
18 customarily used in the conduct of casino nights, including
19 roulette wheels, craps tables, wheel of fortune wheels, bingo
20 cards, raffle and pull-tab tickets and other apparatus or
21 paraphernalia used in casino night games subject to regulation
22 pursuant to the Casino Nights Act. "Casino night gaming
23 equipment and supplies" does not include any material, device,
24 apparatus or paraphernalia incidental to the game, such as
25 pencils, daubers, playing cards or other supplies that may be

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1 purchased from normal sources of supply;

2 F. "distributor" means a person who sells,
3 markets, supplies, leases or otherwise furnishes to permit
4 holders casino night gaming equipment and supplies;

5 G. "distributor license" means an authorization by
6 the board to engage in the distribution of casino night gaming
7 equipment and supplies;

8 H. "permit" means a permit issued by the board
9 authorizing a casino night;

10 I. "permit holder" means a qualified organization
11 that has been issued a permit by the board; and

12 J. "qualified organization" means:

13 (1) a nonprofit organization that has been in
14 existence in New Mexico continuously for three or more years
15 prior to the time of application for a permit, is exempt from
16 the payment of federal and state income taxes pursuant to
17 Section 501(a) of the federal Internal Revenue Code of 1986
18 and is recognized by the internal revenue service as an
19 organization described in Section 501(c)(3) of that code and
20 is exempt from the state income tax pursuant to Subsection B
21 of Section 7-2-4 or Subsection C of Section 7-2A-4 NMSA 1978;
22 or

23 (2) a political party or election campaign
24 that is required to file campaign finance reports with the
25 secretary of state's office or the appropriate county clerk's

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1 office.

2 Section 3. [NEW MATERIAL] POWERS OF THE BOARD. -- The
3 board may:

4 A. authorize and issue permits to qualified
5 organizations to conduct casino nights;

6 B. authorize and issue licenses to distributors of
7 casino night gaming equipment and supplies in accordance with
8 the terms of the Gaming Control Act;

9 C. fine permit holders for violations of the
10 Casino Nights Act or regulations adopted pursuant to that act;

11 D. fine distributor licensees or revoke or suspend
12 distributor licenses for violations of the Casino Nights Act
13 or regulations adopted pursuant to that act;

14 E. temporarily suspend distributor licenses and
15 permits pending final action by the board;

16 F. develop, adopt and promulgate all regulations
17 necessary to implement and administer the provisions of the
18 Casino Nights Act;

19 G. prescribe reasonable fees for permits;

20 H. establish a process for reviewing complaints
21 and allegations of wrongdoing and conduct investigations and
22 subpoena persons and documents to compel access to or the
23 production of documents and records in the custody or control
24 of distributor licensees or permit holders;

25 I. administer oaths and take depositions to the

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1 same extent and subject to the same limitations as would apply
2 if the deposition were pursuant to the discovery rules in a
3 civil action in the district court;

4 J. inspect, examine, photocopy and audit all
5 documents and records of applicants, distributor licensees or
6 permit holders relevant to casino nights in the presence of
7 the applicants, distributor licensees or permit holders or
8 their agents;

9 K. inspect all premises where casino nights are
10 conducted and inspect all property connected with casino
11 nights;

12 L. summarily seize, remove and impound any casino
13 night gaming equipment and supplies and property, documents or
14 records connected with the casino night, for the purpose of
15 examination or inspection; and

16 M perform all other duties necessary to carry out
17 the purposes and provisions of the Casino Nights Act.

18 Section 4. [NEW MATERIAL] CASINO NIGHTS-- CONDUCT OF
19 GAMES LIMITED. --

20 A. All casino nights shall be conducted in
21 accordance with the provisions of the Casino Nights Act and
22 regulations adopted pursuant to that act.

23 B. A person shall not engage in any activity for
24 which the Casino Nights Act or board requires a license or
25 permit without obtaining the license or permit.

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1 C. All forms of commercial gambling, gambling and
2 lottery, as those terms are defined in Chapter 30, Article 19
3 NMSA 1978, are expressly prohibited.

4 Section 5. [NEW MATERIAL] GENERAL LICENSING
5 REQUIREMENTS-- PROCEDURE. --

6 A. The board may adopt, amend or repeal any
7 regulation consistent with the provisions of the Casino Nights
8 Act as it deems necessary to carry out the purposes and
9 provisions of the Casino Nights Act.

10 B. At a minimum, the board shall adopt
11 regulations:

12 (1) prohibiting any individual, firm,
13 partnership, association, organization or corporation to
14 sponsor, conduct or hold more than two casino nights in any
15 calendar year;

16 (2) mandating that there shall be no direct
17 correlation between the amount of chips or script presented to
18 a participant and the participant's donation in the casino
19 night;

20 (3) prescribing the procedures and form of
21 application to be followed by an applicant;

22 (4) establishing an applicant fee schedule;

23 (5) addressing hours and play of games during
24 casino nights; and

25 (6) prohibiting the use of slot machines,

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1 electronic or electromechanical facsimiles of any game of
2 chance, as defined in Subsection M of Section 60-2B-3 NMSA
3 1978, or gaming machine, as defined in Subsection T of Section
4 60-2E-3 NMSA 1978.

5 Section 6. [NEW MATERIAL] PERMIT APPLICATIONS. --

6 A. A qualified organization may apply to the board
7 for a permit.

8 B. An application for a permit shall include:

9 (1) the name and address of the applicant;

10 (2) information required by the board to
11 verify the applicant's status as a qualified organization;

12 (3) the name and address of the applicant's
13 contact person who will be in charge of the casino night;

14 (4) a list of all workers who will assist in
15 the conduct of the casino night;

16 (5) the day and time the casino night is
17 intended to be conducted;

18 (6) a list of casino night games intended to
19 be operated;

20 (7) a description of how the casino night
21 games will be conducted;

22 (8) the location of where the proposed casino
23 night will be held;

24 (9) the name and address of the licensed
25 distributor that will provide casino night equipment and

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1 supplies; and

2 (10) other information and details that the
3 board requires.

4 C. The board may deny an application for a permit
5 for any cause, which is not subject to appeal.

6 Section 7. [NEW MATERIAL] LICENSE TO DISTRIBUTE CASINO
7 NIGHT GAMING EQUIPMENT AND SUPPLIES--APPLICATIONS.--

8 A. No person in New Mexico shall distribute casino
9 night gaming equipment and supplies for use in authorized
10 casino nights unless he has been issued a distributor license
11 by the board.

12 B. The board shall issue distributor licenses in
13 accordance with the provisions of Section 60-2E-62 NMSA 1978.

14 Section 8. [NEW MATERIAL] APPLICATIONS--FEES.--

15 A. A permit fee shall be submitted with each
16 application for a permit. The rate of the fee shall be
17 established by the board by regulation but shall not exceed
18 one hundred dollars (\$100) per casino night.

19 B. Applicants for licenses to distribute casino
20 night gaming equipment and supplies shall be subject to all
21 fees applicable to applicants for distributor licenses
22 pursuant to the Gaming Control Act.

23 Section 9. [NEW MATERIAL] OPERATION OF CASINO NIGHTS.--

24 A. A permit holder shall conduct no more than two
25 casino nights per calendar year.

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1 B. Each permit issued authorizes the permit holder
2 to conduct a single casino night on the date and during the
3 hours authorized.

4 C. A distributor licensee or permit holder shall
5 display its distributor license or permit in full view of the
6 public at all times during the operation of the casino night
7 on the premises where the casino night is conducted.

8 Section 10. [NEW MATERIAL] AGE REQUIREMENT FOR PLAYERS
9 AND WORKERS. -- A person under the age of eighteen years shall
10 not:

11 A. play or be allowed to play any casino night
12 game; or

13 B. be employed as a worker in any casino night.

14 Section 11. [NEW MATERIAL] FINES AND PENALTIES. --

15 A. The board shall adopt rules setting forth
16 uniform standards of penalties concerning fines, suspensions,
17 revocations, conditions and limitations for violation of any
18 provision of the Casino Nights Act or regulation adopted by
19 the board pursuant to that act.

20 B. Any person who willfully violates the Casino
21 Nights Act is guilty of a fourth degree felony.

22 Section 12. Section 30-19-1 NMSA 1978 (being Laws 1963,
23 Chapter 303, Section 19-1, as amended) is amended to read:

24 "30-19-1. DEFINITIONS RELATING TO GAMBLING. -- As used in
25 Chapter 30, Article 19 NMSA 1978:

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1 A. "antique gambling device" means a gambling
2 device twenty-five years of age or older and substantially in
3 original condition that is not used for gambling or commercial
4 gambling or located in a gambling place;

5 B. "bet" means a bargain in which the parties
6 agree that, dependent upon chance, even though accompanied by
7 some skill, one stands to win or lose anything of value
8 specified in the agreement. A bet does not include:

9 (1) bona fide business transactions that are
10 valid under the law of contracts, including:

11 (a) contracts for the purchase or sale,
12 at a future date, of securities or other commodities; and

13 (b) agreements to compensate for loss
14 caused by the happening of chance, including contracts for
15 indemnity or guaranty and life or health and accident
16 insurance;

17 (2) offers of purses, prizes or premiums to
18 the actual contestants in any bona fide contest for the
19 determination of skill, speed, strength or endurance or to the
20 bona fide owners of animals or vehicles entered in such
21 contest;

22 (3) a lottery as defined in this section; or

23 (4) betting otherwise permitted by law;

24 C. "gambling device" means a contrivance other
25 than an antique gambling device that is not licensed for use

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1 pursuant to the Gaming Control Act and that, for a
2 consideration, affords the player an opportunity to obtain
3 anything of value, the award of which is determined by chance,
4 even though accompanied by some skill, whether or not the
5 prize is automatically paid by the device;

6 D. "gambling place" means a building or tent, a
7 vehicle, whether self-propelled or not, or a room within any
8 of them that is not within the premises of a person licensed
9 as a lottery retailer or that is not licensed pursuant to the
10 Gaming Control Act, one of whose principal uses is:

- 11 (1) making and settling of bets;
12 (2) receiving, holding, recording or
13 forwarding bets or offers to bet;
14 (3) conducting lotteries; or
15 (4) playing gambling devices; and

16 E. "lottery" means an enterprise wherein, for a
17 consideration, the participants are given an opportunity to
18 win a prize, the award of which is determined by chance, even
19 though accompanied by some skill. "Lottery" does not include
20 the New Mexico state lottery established and operated pursuant
21 to the New Mexico Lottery Act, ~~[or]~~ gaming that is licensed
22 and operated pursuant to the Gaming Control Act or casino
23 nights that are conducted pursuant to the Casino Nights Act.

24 As used in this subsection, "consideration" means anything of
25 pecuniary value required to be paid to the promoter in order

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1 to participate in a gambling or gaming enterprise. "

2 Section 13. A new section of the Gaming Control Act,
3 Section 60-2E-62 NMSA 1978, is enacted to read:

4 "60-2E-62. [NEW MATERIAL] LICENSE TO DISTRIBUTE CASINO
5 NIGHT GAMING EQUIPMENT AND SUPPLIES--LIMITATIONS.--

6 A. No person shall distribute casino night gaming
7 equipment and supplies, as defined in the Casino Nights Act,
8 for use or play in New Mexico unless he has been issued a
9 distributor license by the board.

10 B. The board shall issue a distributor license in
11 accordance with the provisions of the Gaming Control Act and
12 regulations adopted pursuant to that act.

13 C. A licensed distributor of casino night gaming
14 equipment and supplies is limited to distributing casino night
15 gaming equipment and supplies to qualified organizations
16 authorized to conduct casino nights pursuant to the Casino
17 Nights Act. Casino night gaming equipment and supplies are
18 exempt from approval and licensure by the board.

19 D. A licensed distributor of casino night gaming
20 equipment and supplies is exempt from the gaming tax imposed
21 on licensed distributors pursuant to Section 60-2E-47 NMSA
22 1978, but the gross receipts of a licensed distributor are
23 subject to the provisions of the Gross Receipts and
24 Compensating Tax Act. "

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